



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1243

H.P. 919

House of Representatives, April 12, 1993

An Act Concerning Child Sexual Abuse Laws.

Reference to the Committee on Judiciary suggested and ordered printed.

∕JOSEPH W. MAYO, Clerk

Presented by Representative CLARK of Millinocket. Cosponsored by Representatives: CATHCART of Orono, HOLT of Bath, JACQUES of Waterville, MORRISON of Bangor, TRACY of Rome, VIGUE of Winslow, Senator: VOSE of Washington. Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 17-A MRSA §8, sub-§1, as amended by PL 1991, c. 585, §1, is further amended to read:

1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section; provided that a prosecution for murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 18 years at the time of the crime, a prosecution for incest, rape or gross sexual assault, formerly denominated as gross sexual misconduct, may be commenced at any time.

Sec. 2. 17-A MRSA §8, sub-§2, as amended by PL 1991, c. 585, 16 §2, is further amended to read:

2. Prosecutions for crimes other than murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 18 years at the time of the crime, prosecutions for incest, rape or gross sexual assault, formerly denominated as gross sexual misconduct, are subject to the following periods of limitations:

> A. A prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed; and

B. A prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

Sec. 3. 17-A MRSA §253, sub-§5, as amended by PL 1991, c. 569, is repealed and the following enacted in its place:

 5. Violation of subsection 2, paragraph A, B, C or D when the actor is in a position of authority or has responsibility for
 the other person under subsection 2, paragraph E, F, G, H or I is a Class A crime; otherwise, violation of subsection 2 is a Class
 B crime.

Sec. 4. 17-A MRSA §255, sub-§2, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

2. Unlawful sexual contact is a Class C crime, except that 44 <u>a violation of subsection l, paragraph A, B or D is a Class D</u> <u>crime.</u>

Sec. 5. 17-A MRSA §1252, sub-§5-B is enacted to read:

50 <u>5-B.</u> Notwithstanding any other provision of this Code, for a person convicted of violating section 253 or 255 the minimum

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sentence of imprisonment, which may not be suspended, must be as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and when the sentencing class is Class C, the minimum term of imprisonment is one year.

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Sec. 6. 17-A MRSA §1322, sub-§3, ¶A, as amended by PL 1989, c. 924, §13, is further amended to read:

Α. "Allowable expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for rehabilitation, medical care, rehabilitative occupational training and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. Expenses for counseling services for victims of crimes defined in chapter 11 are always reasonably needed and qualify as allowable expenses. The term includes reasonable and customary charges incurred for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required.

Sec. 7. 19 MRSA §214, sub-§5, ¶K-1, as enacted by PL 1991, c. 164, §2, is amended to read:

K-1. The existence of a history of domestic abuse between the parents; and

Sec. 8. 19 MRSA §214, sub-§5, ¶K-2 is enacted to read:

<u>K-2. The existence of any history of child abuse by a parent; and </u>

Sec. 9. 34-A MRSA §5404, sub-§3, $\P B$, as amended by PL 1991, c. 845, §7, is further amended to read:

B. Supervise persons released from a correctional facility under section 3035, if the chief administrative officer of the facility requests the supervision and the director agrees to the supervision and supervise persons transferred to supervised community confinement under section 3036-A if the commissioner directs; and

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Sec. 10. 34-A MRSA §5404, sub-§3, ¶C, as amended by PL 1989, c. 127, §14, is further amended to read:

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C. Keep informed of the conduct and condition of each person placed under the officer's supervision and use suitable methods to encourage the person to improve that person's conduct and condition; and

Sec. 11. 34-A MRSA §5404, sub-§3, TE is enacted to read:

E. Strictly monitor and maintain reports regarding attendance at mandated counseling sessions for each person convicted of child sexual abuse placed under the officer's supervision.

STATEMENT OF FACT

This bill strengthens existing laws against sexual abuse of minors in the following ways.

22 1. The bill increases from 16 to 18 the age below which there is no period of limitation on actions for prosecution for 24 incest, rape or gross sexual assault.

26 2. The bill increases the classification one class for crimes of gross sexual assault or unlawful sexual conduct where
28 the offender was in a position of authority over or has a legal responsibility of guardianship over the victim.

3. The bill sets minimum sentences of imprisonment for 32 persons convicted of sexual abuse crimes.

34 4. The bill amends the restitution section to make explicit that the definition of "allowable expense" under the term
36 "economic loss" includes the cost of counseling services for victims of sexual abuse crimes.

5. The bill explicitly requires consideration of a history 40 of sexual abuse in court proceedings awarding custody and visitation rights.

6. The bill explicitly requires strict monitoring of 44 attendance at counseling sessions for offenders on probation or parole serving sentences for convictions for child sexual abuse.

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